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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/662,492	09/15/2000	J. Keith Kelly	6945.002.00	3670

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EXAMINER

GART, MATTHEW S

ART UNIT PAPER NUMBER

3625

DATE MAILED: 03/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/662,492

Applicant(s)

KELLY ET AL.

Examiner

Matthew s Gart

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-- The MAILING DATE of this communication appears in the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 21-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION*****Election/Restrictions***

Group I (claims 1-20) was provisionally elected by the applicant. Claims 21-33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected inventions of Group II and III, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 4.

Applicant's election with traverse of claims 1-20 in Paper No. 4 is acknowledged. The traversal is on the ground(s) that the Examiner has not provided an example that one of the subcombinations has utility other than in the disclosed combination. This is not found persuasive because the Examiner noted that it was proper to restrict the application in the manner presented in Paper No. 2, because the inventions (Group I, II, and III) are distinct, each from the other because of the following reasons:

Inventions (I: claims 1-20) and (II: claims 21-26) are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention (I) has separate utility such as a farm planning guide to assist a user in optimizing crop yield, providing information regarding seeds, and providing information regarding fertilizers. See MPEP § 806.05(d).

Inventions (I: claims 1-20) and (III: claims 27-33) are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention (I) has separate utility such as a farm planning guide to assist a user in optimizing crop

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yield, providing information regarding seeds, and providing information regarding fertilizers. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and the search required for Group II and Group III is not required for Group I, restriction for examination purposes as indicated is proper.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

This application has been filed with informal drawings, which are acceptable for examination purposes only. Figures 3-5 contain rough text, which may affect clarity when reproduced.

Applicant is required to submit a formal correction of the noted defect. Applicant is required to submit drawing corrections promptly. Drawing objections may no longer be held in abeyance.

### ***Specification***

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

**Claims 1-2, 4, 8-13, and 18-20 are rejected under 35 U.S.C. 102(a) as being anticipated by Koppert (PTO-892, Ref U).**

Referring to claim 1. Koppert discloses a method of providing information on pesticides, comprising inputting into a computer:

- The identity of a pest existing on a property (Koppert: at least page 2 and page 14);
- The identity of a plant or crop existing on the property, wherein said plant or crop is adversely affected by said pest (Koppert: at least page 2 and page 14); and
- Executing an algorithm for generating therefrom instructions for choosing a pesticide to protect said plant or crop from said pest (Koppert: at least page 2 and page 14).

Koppert's use of natural enemies requires due attention. Success depends on several factors, such as crop, cultivation circumstances and the crop protection agents used. These must be combined into an appropriate system for each particular crop in various situations, where ultimately a recommended protocol is established. Such a protocol outlines the introduction strategy of natural enemies and any chemical correct measures. Koppert has developed these protocols for a variety of crops.

The Examiner notes that in the instant application, the information inputted into the computer (identity of a pest and identity of a crop) is not linked to the information used in executing the algorithm. There is not a linking limitation connected these separate steps.

Referring to claim 2. Koppert further discloses a method wherein said instructions allow for a comparison of different products (Koppert; at least page 3).

Referring to claim 4. Koppert further discloses a method comprising obtaining the product by sale on-line (Koppert: at least page 2).

Referring to claim 8. Koppert further discloses a method wherein information regarding an on-line sale of the product is entered into a central database (Koppert: at least page 11-12).

Referring to claims 9-12. Koppert further discloses a method comprising accessing a farm-planning guide to assist a user in optimizing crop yield, providing information regarding seeds, and providing information regarding fertilizers (Koppert: at least page 13).

Referring to claim 13. Claim 13 is rejected under the same rationale as set forth above in claim 1.

Referring to claims 18-20. Claims 18-20 are rejected under the same rationale as set forth above in claims 9-12.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koppert (PTO-892, Ref U) in view of Valent (PTO-892, Ref W).**

Referring to claim 3. Koppert discloses a method according to claim 1 as indicated supra. Koppert does not expressly disclose a method wherein the instructions provide access to a material safety data sheet. Valent discloses a method wherein the instructions provide access to a material safety data sheet (Valent: page 7). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the system of Koppert to have included the limitations of Valent as discussed above in order to facilitate a solution to the user's specific need (Valent: page 4).

**Claims 5-7 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koppert (PTO-892, Ref U) in view of DoYour (PTO-892, Ref X).**

Referring to claim 5. Koppert discloses a method according to claim 4 as indicated supra. Koppert does not expressly disclose a method wherein the algorithm initiates an analysis of restrictions on the sale of the pesticide. DoYour discloses a method wherein the algorithm initiates an analysis of restrictions on the sale of the pesticide (DoYour: at least page 11). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the system of Adgen in view of Valent to have included the limitations of DoYour as discussed above in order to insure that the consumer has the correct product and application instructions for the job (DoYour: page 1).

Referring to claim 6. Koppert in view of DoYour discloses a method according to claim 5 as indicated supra. Koppert further discloses a method wherein analysis

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includes validating information regarding a pesticide applicator (Koppert: at least page 4).

Referring to claim 7. Koppert in view of DoYour discloses a method according to claim 5 as indicated supra. Koppert further discloses a method wherein the analysis includes validating information regarding a pesticides dealer (Koppert: at least pages 8-10).

Referring to claim 14. Claim 14 is rejected under the same rationale as set forth above in claim 5.

Referring to claim 15. Claim 15 is rejected under the same rationale as set forth above in claim 6.

Referring to claim 16. Claim 16 is rejected under the same rationale as set forth above in claim 7.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

<http://www.adgen.co.uk>, [http://web.archive.org/web/\\*/www.adgen.co.uk](http://web.archive.org/web/*/www.adgen.co.uk), March 4, 2000; discloses a system for determining rapid test kits and services for the detection of plant pathogens.



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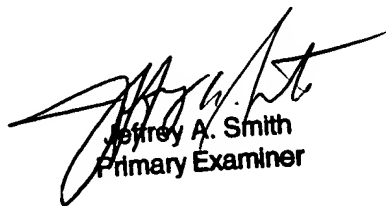
Any inquiry concerning this communication should be directed to Matthew Gart whose telephone number is 703-305-5355. This examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

MSG

March 13, 2003

  
Jeffrey A. Smith  
Primary Examiner